

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RETAILMENOT, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 18-937 (CFC) (MPT)
	)	
HONEY SCIENCE CORP.,	)	
	)	
Defendant.	)	

**NOTICE OF SUPPLEMENTAL AUTHORITY**

Pursuant to D. Del. LR 7.1.2(b), Plaintiff RetailMeNot, Inc. hereby submits the following as supplemental authority in support of its claim-construction positions that the terms “the list” and “the server” in Honey’s ’625 patent are indefinite under 35 U.S.C. § 112 (*see* D.I. 107): (1) the prosecution history for Honey’s 16/172,685 application (Ex. A) and (2) the prosecution history for Honey’s 16/403,036 application (Ex. B), both of which are continuations of Honey’s ’625 patent.

During claim-construction briefing and at the hearing, RetailMeNot argued that, among other things, the terms “the list” and “the server” in the ’625 patent are indefinite as a result of amendments that Honey made during prosecution. D.I. 107 at 15–16, 24–25; D.I. 112 at 175:4–182:2 (“the list”); D.I. 107 at 34–35, 41; D.I. 112 at 188:18–192:6 (“the server”). Honey responded that, even after the amendments, there remained implicit antecedent basis for “the list,” or alternatively, the affected claims contained obvious administrative or typographical errors for both “the list” and “the server.” *Id.* at 23, 28 n.14, 38.

Honey has attempted to address the problem in the ’036 continuation application by removing “the list” altogether from the equivalent of claim 11 from the ’625 patent, by

substituting Honey’s proposed claim construction from this litigation (“the one or more digital codes”) in the equivalents of claims 8, 17, and 19, and by substituting the word “storage” in the equivalent of claim 15. For “the server,” rather than substitute the construction that Honey proposed in this litigation (“a server that transmitted said one or more digital codes over the public network”), Honey instead replaced “the server” with “the system” in the equivalents of claims 5 and 7 and “the browser software” in the equivalent of claim 16. Ex. A at SA014–16. RetailMeNot further notes that the examiner has rejected both of Honey’s continuation applications, and in so doing, the examiner copied portions of RetailMeNot’s pending IPR petition (Ex. C) directly into the Final Office Action. Ex. A at SA128–139, Ex. B at SA164–176.

If it would be helpful to the Court in reaching its claim-construction opinions, RetailMeNot can promptly submit a short supplemental brief on these issues.

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*/s/ Jeremy A. Tigan*

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October 28, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on October 28, 2019, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on October 28, 2019, upon the following in the manner indicated:

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